

ORIGINAL

BEFORE THE

Federal Communications Commission

WASHINGTON, D.C.

RECEIVED

MAR 27 1998

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)

Closed Captioning and Video Description
of Video Programming)

MM Docket No. 95-176

Implementation of Section 305 of the
Telecommunications Act of 1996)

Video Programming Accessibility)

To: The Commission

REPLY COMMENTS OF UNIVISION COMMUNICATIONS INC.

Univision Communications Inc. ("Univision"), by its attorneys and pursuant to Sections 1.415 and 1.419 of the Commission's Rules, hereby submits its reply comments in response to the Commission's above-captioned Further Notice of Proposed Rulemaking, FCC 98-3 (released January 14, 1998) ("NPRM"). As set forth below, while Univision supports the Commission's efforts to ensure that those with hearing disabilities have access to televised emergency information, real-time captioning of emergency information is not presently feasible for non-English-language broadcasters.

Univision owns and operates the Univision Network, the nation's most popular Spanish language television network, and thirteen full-power television stations. Univision has achieved its success by constantly improving the broadcast service that it provides to the nation's Hispanic population. As part of this effort, and in response to the Commission's closed captioning rulemaking, Univision examined the difficulties involved in captioning its programming. It ultimately concluded, and informed the Commission through comments in the rulemaking, that closed captioning of foreign language programming was not currently feasible. As an initial

No. of Copies rec'd 014
List ABCDE

matter, no Spanish-language closed captioning industry presently exists. Beyond this fundamental problem, as a Spanish-language broadcaster receiving a substantial portion of its programming from outside of the United States, Univision cannot obtain pre-captioned programming, and therefore faces severe difficulties in captioning foreign programming prior to broadcast. As a result, if Univision were required to caption the tremendous amount of programming it airs each week, the allocation of resources necessary to accomplish this feat would adversely affect the quality of programming and community service that Univision presently provides to its audience.^{1/}

After careful review of over one hundred comments filed in the closed captioning rulemaking proceeding, the Commission found that

the personnel and the facilities necessary to caption languages other than English are extremely limited and with respect to live captioning are almost entirely nonexistent. Where the programming is acquired from outside of the United States, in many situations, additional logistical problems are presented due to the timing of the programming delivery process and the fact that the programming is produced primarily for markets outside of the United States, where there is no closed captioning obligation and, indeed, where there may be no technical system and standards for the distribution of such materials.

Report and Order, Closed Captioning and Video Description of Video Programming, FCC 97-279 (released August 22, 1997) (emphasis added) (“R&O”) at ¶ 147. However, the Commission did find that “pre-scripted programming that makes use of a teleprompter can be captioned using the [electronic news room] technique without significant cost and without problems being created by the absence of closed captioning stenotypers, regardless of the language involved.”

^{1/} Even if there were a Spanish-language closed captioning industry, the economic costs for Univision to caption its programming are anticipated to exceed the individual gross revenues of over half of Univision’s owned and operated stations. These immense costs would likely force Univision to air less programming, purchase cheaper programs of lower quality, and/or cut back its service to its communities in order to afford the closed captioning service. See Comments of Univision Communications Inc., MM Docket No. 95-176, at 2-5; see also Notice of Ex Parte Presentation filed by Univision Communications Inc., MM Docket No. 95-176 (July 30, 1997).

R&O at ¶ 148. Based on its findings, the Commission exempted “[a]ll programming for which the audio is in a language other than English, except that scripted programming that can be captioned using the ‘electronic news room’ technique” 47 C.F.R. § 79.1(d)(3).

Since the release of the R&O approximately seven months ago, there has not been any material change in the availability of either personnel or facilities required to caption non-English-language programming. More importantly, there has been no change in the availability of personnel and facilities necessary for real-time closed captioning of non-English-language programming. Consequently, if the Commission were to impose new rules with regard to the closed captioning of emergency information, a continuation of the closed captioning exemption for non-English-language broadcasters would be appropriate. This is especially true given that the demands of captioning emergency information are even greater than those required for regular captioning as “emergency information is not typically programming that can be pre-recorded and captioned in advance of airing. A requirement that such programs be captioned would therefore oblige providers to obtain real-time captioning services for such programs.”

NPRM at ¶ 9.

Furthermore, the scarcity of resources available to non-English-language broadcasters to provide closed captioning becomes an even greater obstacle in emergency situations. As the Commission has recognized, in an emergency all broadcasters in the affected region “will need to access real-time captioning resources at the same time.” NPRM at ¶ 11. This supply-and-demand problem facing English-language broadcasters is far worse for foreign language broadcasters. For Univision, which competes against other Spanish-language broadcasters, such a potential scramble to secure the services of what may be non-existent Spanish-language real-time captioning personnel and facilities is not a practical approach to providing emergency information.

Univision notes that the Commission's rules already require "broadcast licensees to make the emergency information programming that they transmit accessible to persons who are deaf or hard of hearing." NPRM at ¶ 8 (citing 47 C.F.R. § 73.1250(h)). Univision also participates in the Emergency Alert System ("EAS") which is designed to reach hearing-impaired viewers through the transmission of "a visual message containing the Originator, Event, Location and the valid time period of an EAS message." 47 C.F.R. § 11.51(d). Hence, any small gains that an emergency closed captioning rule would provide are vastly outweighed by the costs, which would unnecessarily deplete non-English-language broadcasters' resources to provide quality programming and services to their communities.

CONCLUSION

If the Commission determines that emergency closed captioning rules are necessary, a continuation of the current exemption for non-English-language programming is appropriate. The Commission's previous recognition of the need for such an exemption, and the reasoning behind it, dictate that the exemption also be applied in any rules resulting from this proceeding. Accordingly, Univision respectfully requests that the Commission maintain the non-English-language closed captioning exemption if the Commission concludes that additional rules governing the closed captioning of emergency information are required.

Respectfully submitted,

Fisher Wayland Cooper Leader
& Zaragoza L.L.P.
2001 Pennsylvania Avenue, N.W.
Suite 400
Washington, D.C. 20006
(202) 659-3494

UNIVISION COMMUNICATIONS INC.

By: 
Clifford M. Harrington
Scott R. Flick

March 27, 1998

Its Attorneys